

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JAMES FRAZIER, JR.	)	
	)	Civil Action No. 2:12-cv-1035
Plaintiff,	)	
	)	Judge Terrence F. McVerry
v.	)	
	)	
ERIC K. SHINSEKI, SECRETARY,	)	
DEPARTMENT OF VETERANS	)	
AFFAIRS,	)	
	)	
Defendant.	)	

**REQUEST FOR LEAVE TO FILE REPLY**

Pursuant to Section II.B of this Court's Practices and Procedures, Plaintiff James Frazier ("Plaintiff") hereby requests this Court's leave to file a Reply to the Response filed by Defendant Eric K. Shinseki, Secretary, Department of Veterans Affairs ("Defendant") (ECF Doc. No. 42) to Plaintiff's Motion for Reconsideration (ECF Doc. No. 38). In support thereof, Plaintiff states as follows:

1. Defendant filed a Motion to Compel Plaintiff's responses to Defendant's discovery requests (ECF No. 36 ("Motion")), and this Court granted Defendant's Motion the following day. (ECF Doc. No. 37.)

2. Plaintiff then filed a Motion for Reconsideration of that Order (ECF Doc. No. 38), and this Court set a briefing schedule for Defendant's response to the same. (ECF Doc. No. 39.)

3. This Court granted Defendant's request for an enlargement of time to respond to Plaintiff's Motion for Reconsideration. (ECF No. 41.)<sup>1</sup>

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<sup>1</sup> Plaintiff did not oppose Defendant's motion seeking an extension, and confirmed that non-opposition by telephone to a representative of this Court on April 8, 2014.

4. On April 9, 2014, Defendant filed its Response to Plaintiff's Motion for Reconsideration. (ECF Doc. No. 42.)

5. In its Response, Defendant submitted a 17-page brief that raises several additional arguments, and cites additional "evidence."

6. Specifically, Defendant cites a plethora of cases not mentioned in any earlier correspondence, any prior pleading, or the original Motion to Compel. *See* ECF Doc. No. 42 at pp. 4-15.

7. Moreover, Defendant cites to and attaches several documents that Defendant claims support its motion to compel. (*See id.* (citing a portion of *Frazier v. Mabus*, Civ. No. 10-500, Docket No. 21 (W.D. Pa.)); ECF Doc. No. 42-2, -3 (attaching purported "evidence" that was not previously disclosed, not cited in any prior pleading, and not authenticated in any manner whatsoever).)

8. Under Section II.B of this Court's Practices and Procedures, a party must seek the Court's leave to file a Reply to a Response to a Motion. According to Section II.B, any reply brief "shall address only new arguments advanced by the opposition and shall not exceed five (5) pages."

9. As explained above, good cause exists for this Court to grant Plaintiff leave to file a Reply brief not exceeding five pages. Granting such leave will allow Plaintiff to address the additional legal discussion and additional "evidence" cited by Defendant.

10. Accordingly, Plaintiff respectfully requests this Court's leave to file a Reply to Defendant's Response to Plaintiff's Motion for Reconsideration reconsider and vacate its Order of March 14.

11. A proposed Order granting Plaintiff's request is submitted herewith.

April 10, 2014

Respectfully submitted,

/s/ Vincent J. Mersich  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 10<sup>th</sup> day of April 2014, a copy of the foregoing document was filed using the Western District of Pennsylvania's ECF system, through which this document is available for viewing and downloading, and which causes a notice of electronic filing to be served upon the following counsel of record:

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/s/ Vincent Mersich

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